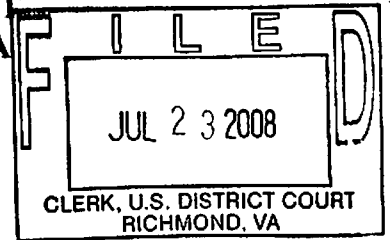


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



DERRICK JEROME HAWTHORNE,)
)
Plaintiff,)
)
v.)
)
SGT. BACARATH, *et al.*,)
)
Defendants.)

Civil No. 3:08CV280-HEH

MEMORANDUM OPINION
(Dismissing Plaintiff's Action for Failure to Comply with Court's Order)

By Memorandum Order entered on May 19, 2008, the Court conditionally docketed Plaintiff's action. At that time, the Court directed Plaintiff to complete and return to the Court an *in forma pauperis* affidavit form. The Court warned Plaintiff that the "[f]ailure to complete the affidavit in its entirety will result in summary dismissal of the action." (May 19, 2008 Memo. Order ¶ 2 (emphasis in original).)

The Court received the affidavit from Plaintiff on June 4, 2008. Paragraph 6 of the affidavit form directed Plaintiff to list all of his prior cases that were dismissed as frivolous, malicious or failed to state a claim upon which relief could be granted. Plaintiff did not comply with this directive; he listed no cases in paragraph 6. Instead, Plaintiff, recited here verbatim, stated, "None/All my cases concerns is, and has Always been lagitamate claims under the constitutional guideline's in Respect to Amendment Violations toward's me (us) by certain prison, Jail official's. in matter's of such.," (Pl.'s Aff. Supp. Req. Proceed IFP ¶ 6.) As set forth in the show cause order in *Hawthorne v.*

Governor Don Siegelman, No. 2:00cv0100 (N.D. Ala. Mar. 2, 2000), a copy of which is attached hereto, Plaintiff has filed at least three civil actions that were dismissed as frivolous. Plaintiff's failure to abide by the Court's instructions warrants summary dismissal of this action. *See Sloan v. Lesza*, 181 F.3d 857, 858-59 (7th Cir. 1999); *see also Warren v. Guelker*, 29 F.3d 1386, 1389-90 (9th Cir. 1994) (per curiam) (*pro se, in forma pauperis* prisoner's misrepresentation about previous lawsuits may violate Fed. R. Civ. P. 11); *McClellan v. Bailey*, No. 3:07cv607, 2008 WL 110454, at *1 (E.D. Va. Jan. 8, 2008); *Apel v. Fla. Bar*, No. 3:07cv506, 2007 WL 4414825, at *2 (N.D. Fla. Dec. 17, 2007) (explaining the importance of disclosure of prior civil actions (adopting Dec. 5, 2007 R&R)); *cf. Ballard v. Carlson*, 882 F.2d 93, 95-96 (4th Cir. 1989) (discussing dismissal for failure to comply with the directives of the court). Accordingly, the action will be dismissed without prejudice. Plaintiff may refile the action at anytime. The pending motions will be denied as moot.

An appropriate Order will accompany this Memorandum Opinion



/s/

Henry E. Hudson
United States District Judge

Date: July 22, 2008
Richmond, Virginia